

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

ELIZABETH HORTON

Plaintiff,

v.

**DON WILLIAMS, individually and
in his capacity as the Manager of
National Seating and Mobility, Inc.,
NATIONAL SEATING AND
MOBILITY, INC., GERALD
SHOCKLEY, individually and in his
capacity of a special agent of the
Alabama Attorney General's Office,**

Defendants.

**CIVIL ACTION NUMBER:
2:06-cv-526-MHT-TFM**

UNOPPOSED

**DEFENDANT NATIONAL SEATING AND MOBILITY, INC.'S MOTION
FOR ENTRY OF HIPAA PROTECTIVE ORDER**

Defendant National Seating and Mobility, Inc. ("NSM") moves this Court to enter a Protective Order for Compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) for use in requesting information from the Alabama Medicaid Agency, the Attorney General's Office, or any other entity with information relevant to this action.

In support of this motion, NSM states as follows:

1. The Plaintiff's action alleges that NSM's employees were falsifying dates on documents submitted to the Alabama Medicaid Agency ("AMA") as part of the prior approval process. *See* Amended Complaint ¶ 13. Plaintiff alleges that she reported this fact to the AMA, that this information was provided to the Attorney General's Office ("AG's Office), and that both the AMA and the AG's Office conducted an investigation into her complaint. *See id.* at ¶¶ 13-14. Plaintiff's Complaint then alleges that based on statements made during the investigations by defendant Don Williams, a former employee of NSM, Gerald Shockley, an investigator with the AG's Office, caused Plaintiff to be detained and arrested without probable cause on the charge of furnishing a false report to a law enforcement officer. *See, e.g., id.* at ¶¶ 15, 17, 22. Plaintiff has filed a section 1983 claim against NSM relating to that arrest. *See* Amended Complaint.

2. As part of the investigations into Ms. Horton's allegations, the AMA and the AG's Office compiled the names of a sampling of NSM's customers who received medical equipment from NSM through the prior approval process with the AMA. The investigators from these agencies then followed up with the chosen customers to determine whether any falsification of dates had occurred.

3. NSM in the defense of its case needs to obtain the investigation files and other information relevant to the allegations in Plaintiff's Complaint from the Alabama Medicaid Agency, the Attorney General's Medicaid Fraud Control Unit,

and any other entity having such information. This information may include the Protected Health Information of customers whose receipt of medical equipment from NSM through the prior approval process with the AMA was a part of the investigation into NSM. NSM does not anticipate that these files will contain any Protected Health Information that is not already in NSM's possession because of NSM's business relationship with the customers.

4. Counsel for NSM has spoken with counsel for each of the other parties and all have said they do not oppose this motion or the entry of a HIPAA protective order.

5. NSM, therefore, requests that the Court enter a HIPAA protective order so that NSM may obtain this necessary information, or enter the proposed order attached hereto.

Wherefore, NSM moves the Court for entry of a HIPAA Protective Order in this action.

Respectfully submitted,

s/Charles A. Stewart, III

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**Attorneys for Defendant
National Seating & Mobility, Inc.**

CERTIFICATE OF SERVICE

I hereby certify that on May 30, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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and I hereby certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participants:

None.

s/Elizabeth B. Mitchell
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